

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Crl.MC.No. 3685 of 2006()

AGAINST THE ORDER DATED 28/10/2006 IN CMP 4724/06 IN
CC.989/2005 of JUDL.MAGISTRATE OF FIRST CLASS, SASTHAMCOTTA

PETITIONER: ACCUSED:

K.A. MUBASHIR,
KALEELIL HOUSE, KIDANGAYAM NADUVIL,
SOORANADU SOUTH, PATHARAM P.O.

BY ADV. SRI.V.V.RAJA
SRI. M.T.SURESH KUMAR

RESPONDENTS: STATE AND COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE A.G.P., HIGH COURT OF KERALA,
ERNAKULAM.
2. ASHARAF, S/O. EBRAHIMKUTTY,
KALLARAYATHU KIZHAKKATHIL, KIDANGAYAM NADUVIL,
SOORANADU SOUTH VILLAGE.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
SRI.AMEER.K.M.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.3685 of 2006

Dated this the 27th day of November 2006

O R D E R

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instruments Act. The complainant was examined in chief and cross-examined. Thereafter, the petitioner/accused filed an application to recall the complainant for further cross-examination. No satisfactory reasons were shown in the petition. The learned Magistrate, in these circumstances, came to the conclusion that the powers under Section 311 Cr.P.C do not deserve to be invoked. In these circumstances, the learned Magistrate proceeded to pass the impugned order.

2. The learned counsel for the petitioner prays that an opportunity may be granted to the petitioner to cross-examine the complainant. I do not find anything harsh or improper in the impugned order passed by the learned Magistrate. But at any rate, I am satisfied that subject to appropriate conditions, the petitioner can be granted an opportunity to cross-examine the complainant. Needless to say, the complainant will have to be compensated for such unnecessary inconvenience.

3. In the result, this Crl.M.C is allowed. The petitioner shall be permitted to further cross-examine the complainant on the next date of posting on condition that the petitioner pays an amount of Rs.500/- (Rupees five hundred only) as cost to the complainant. The petitioner shall not be entitled to any further time after that date for cross-examination of the complainant. It is brought to my notice that already there is a direction for expeditious disposal of the case. The learned Magistrate must make every endeavour to stick to the schedule fixed by the court earlier.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006